

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESUS DIAZ,

Plaintiff,

v.

K. BOTMI, et al.,

Defendants.

No. 2:24-cv-01417-DAD-AC (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
ACTION DUE TO PLAINTIFF'S FAILURE
TO PROSECUTE AND FAILURE TO
COMPLY WITH COURT ORDERS

(Doc. Nos. 16, 24, 26)

Plaintiff, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 11, 2025, the assigned magistrate judge issued findings and recommendations recommending that this action be dismissed for plaintiff's failure to prosecute and comply with court orders. (Doc. No. 26 at 1.) In particular, the magistrate judge noted that on January 3, 2025, the court ordered plaintiff to file an opposition or statement of non-opposition within twenty-one days to defendants' pending motion to dismiss plaintiff's first amended complaint, but plaintiff had not done so. (*Id.*; see Doc. No. 25.)

The pending findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 2.) To

1 date, no objections to the findings and recommendations have been filed, and the time in which to
2 do so has now passed.

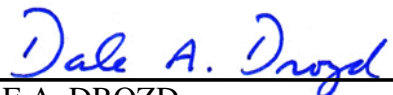
3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
4 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
5 findings and recommendations are supported by the record and by proper analysis.

6 Accordingly:

- 7 1. The findings and recommendations issued on February 11, 2025 (Doc. No. 26) are
8 ADOPTED in full;
- 9 2. Defendants' motion to dismiss plaintiff's first amended complaint (Doc. No. 24) is
10 DENIED as having been rendered moot by this order;
- 11 3. The court DECLINES to adopt the findings and recommendations issued on
12 October 16, 2024 screening plaintiff's first amended complaint and recommending
13 dismissal of plaintiff's Eighth Amendment claim brought against defendants
14 Botmi and Villanueva (Doc. No. 16) as also having been rendered moot by this
15 order;
- 16 4. This action is DISMISSED, without prejudice, due to plaintiff's failure to
17 prosecute this action and failure to comply with court orders; and
- 18 5. The Clerk of the Court is directed to CLOSE this case.

19 IT IS SO ORDERED.

20 Dated: April 1, 2025

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22 DALE A. DROZD
23 UNITED STATES DISTRICT JUDGE
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